

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

ANNAMALAI ASHOKAN, M.D.)

File No. 03-1999-95983

Physician's and Surgeon's)

Certificate No. A 43142)

Respondent.)

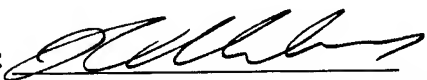
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 24, 2001.

IT IS SO ORDERED August 24, 2001.

MEDICAL BOARD OF CALIFORNIA

By: 
**Hazem H. Chehabi, M.D., Chair
Panel A
Division of Medical Quality**

1 BILL LOCKYER, Attorney General
of the State of California
2 VIVIEN HARA HERSH, State Bar No. 084589
Supervising Deputy Attorney General
3 BRENDA P. REYES, State Bar No. 129718
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 **ANNAMALAI ASHOKAN, M.D.**
15 947 Cass Street, Suite 1
Monterey, CA 93940

16 Physician and Surgeon's
Certificate No. A 43142

17 Respondent.

Case No.: 03-1999-095983

OAH No. N2000050171

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

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20 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to
21 the above-entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Complainant Ronald Joseph is the Executive Director of the Medical
24 Board of California (hereinafter "Board"), who brought this action solely in his official capacity
25 and is represented in the matter by Bill Lockyer, Attorney General of the State of California, by
26 Brenda P. Reyes, Deputy Attorney General.

27 2. Respondent Annamalai Ashokan, M.D. (hereinafter "respondent") is
28 represented in the matter by Edward Hinshaw, Esq., of the firm Hinshaw, Winkler, Draa, Marsh

1 Hinshaw whose address is 12901 Saratoga Avenue, Saratoga, California 95070.

2 3. On or about September 29, 1986, the Board issued Physician and
3 Surgeon's Certificate No. A 43142 to respondent, which license will expire on June 30, 2002,
4 unless renewed.

5 **JURISDICTION**

6 4. The Accusation in Case No. 03-1999-095983 was filed before the Division
7 of Medical Quality, Medical Board of California, Department of Consumer Affairs, State of
8 California (hereinafter "the Division"). The Accusation, together with all other statutorily
9 required documents, was duly served upon respondent on or about February 14, 2000, and
10 respondent timely filed his Notice of Defense contesting the Accusation. A First Amended
11 Accusation was filed before the Division, was duly served upon respondent on or about June 26,
12 2000, and is currently pending against respondent. A true and correct copy of the First Amended
13 Accusation (hereinafter "Accusation") is attached hereto as "Exhibit A."

14 **ADVISEMENT AND WAIVERS**

15 5. Respondent has carefully read and discussed with his counsel the nature of
16 the charges and allegations in the Accusation and the effects of this stipulation.

17 6. Respondent is fully aware of his legal rights in this matter, including the
18 right to a hearing on the charges and allegations contained in the Accusation, the right to be
19 represented by counsel at his own expense, the right to confront and to cross-examine the
20 witnesses against him, the right to present evidence and to testify on his own behalf and to the
21 issuance of subpoenas to compel the attendance of witnesses and the production of documents in
22 both defense and mitigation of the charges, and any and all other rights which are accorded
23 respondent pursuant to the California Administrative Procedure Act (Gov. Code, § 11500, et
24 seq.) and other applicable laws, including the right to seek reconsideration, review by the
25 superior court, and appellate review.

26 7. Respondent hereby freely and voluntarily and after consulting with his
27 attorney waives each and every right set forth above in Paragraph 6.

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1 Disciplinary Order:

2 **DISCIPLINARY ORDER**

3 14. **IT IS HEREBY ORDERED** that Physician and Surgeon's Certificate
4 No. A 43142, heretofore issued to Annamalai Ashokan, M.D., is revoked. However, the
5 revocation is stayed and respondent is placed on probation for five (5) years on the following
6 terms and conditions. Within 15 days after the effective date of this decision, respondent shall
7 provide the Division, or its designee, proof of service that respondent has served a true copy of
8 this decision on the Chief of Staff or Chief Executive Officer at every hospital where privileges
9 or membership are extended to respondent or at any other facility where respondent engages in
10 the practice of medicine and on the Chief Executive Officer at every insurance carrier where
11 malpractice insurance coverage is extended to respondent.

12 A. **ACTUAL SUSPENSION.** As part of probation, respondent is suspended
13 from the practice of medicine for sixty (60) days beginning the effective date of this Decision.

14 B. **PSYCHIATRIC EVALUATION.** Within 30 days of the effective date
15 of this decision, and on a periodic basis thereafter as may be required by the Division or its
16 designee, respondent shall undergo a psychiatric evaluation (and psychological testing, if deemed
17 necessary) by a Division-appointed psychiatrist, who shall furnish an evaluation report to the
18 Division or its designee. Respondent shall pay the cost of the psychiatric evaluation.

19 If respondent is required by the Division or its designee to undergo psychiatric
20 treatment, respondent shall within 30 days of the requirement notice, submit to the Division for
21 its prior approval the name and qualifications of a psychiatrist of respondent's choice.
22 Respondent shall undergo and continue psychiatric treatment until further notice from the
23 Division or its designee. Respondent shall have the treating psychiatrist submit quarterly status
24 reports to the Division or its designee indicating whether respondent is capable of practicing
25 medicine safely.

26 Respondent shall not engage in the practice of medicine until notified by the
27 Division or its designee of its determination that respondent is mentally fit to practice safely.

28 C. **ETHICS COURSE.** Within 60 days of the effective date of this

1 decision, respondent shall enroll in a course in Ethics approved in advance by the Division or its
2 designee, and shall successfully complete the course during the first year of probation.

3 D. **EDUCATION COURSE.** Within 90 days of the effective date of this
4 decision, and on an annual basis thereafter, respondent shall submit to the Division or its
5 designee for its prior approval an educational program or course in boundaries, interpersonal
6 communications, and transference/counter transference which shall be aimed at correcting any
7 areas of deficient practice or knowledge and which shall not be less than 40 hours per year for
8 each year of probation. This program shall be in addition to the Continuing Medical Education
9 (CME) requirements for relicensure. Following the completion of each course, the Division or
10 its designee may administer an examination to test respondent's knowledge of the course.
11 Respondent shall provide proof of attendance for 65 hours of CME of which 25 hours were in
12 satisfaction of this condition and were approved in advance by the Division or its designee.

13 E. **EDUCATIONAL REVIEW.** Following completion of the first year of
14 education requirements, respondent shall submit to an educational review concerning the
15 circumstances which resulted in this administrative action. The educational review shall be
16 conducted by a board-appointed expert case reviewer and/or Board designee familiar with this
17 case. Educational reviews are informational only and intended to benefit respondent's practice
18 by preventing future such complaints. Respondent shall pay all costs associated with this
19 educational review.

20 F. **THIRD PARTY PRESENCE.** During each year of probation,
21 respondent shall have a third party present while examining or treating female patients.
22 Respondent shall, within 30 days of the effective date of the decision, submit to the Division or
23 its designee for its approval name(s) of persons who will act as the third party present.
24 Respondent shall execute a release authorizing the third party(s) present to divulge any
25 information that the Board may request during interviews by the probation monitor on a periodic
26 basis.

27 G. **OBEY ALL LAWS.** Respondent shall obey all federal, state and local
28 laws, all rules governing the practice of medicine in California, and remain in full compliance

1 with any court-ordered criminal probation, payments or other orders.

2 H. **QUARTERLY REPORTS.** Respondent shall submit quarterly
3 declarations under penalty of perjury on forms provided by the Division, stating whether there
4 has been compliance with all the conditions of probation.

5 I. **PROBATION SURVEILLANCE PROGRAM COMPLIANCE.**
6 Respondent shall comply with the Division's probation surveillance program. Respondent shall,
7 at all times, keep the Division informed of his addresses of business and residence which shall
8 both serve as addresses of record. Changes of such addresses shall be immediately
9 communicated in writing to the Division. Under no circumstances shall a post office box serve
10 as an address of record, except as allowed by Business and Professions Code section 2021(b).

11 Respondent shall, at all times, maintain a current and renewed physician
12 and surgeon's license.

13 Respondent shall also immediately inform the Division, in writing, of any
14 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last,
15 more than thirty (30) days.

16 J. **INTERVIEW WITH THE DIVISION.** Respondent shall appear in
17 person for interviews with the Division, its designee, or its designated physician(s) upon request
18 at various intervals and with reasonable notice.

19 K. **TOLLING OF PROBATION.** In the event respondent should leave
20 California to reside or to practice outside the State or for any reason should respondent stop
21 practicing medicine in California, respondent shall notify the Division or its designee in writing
22 within ten (10) days of the dates of departure and return or the dates of non-practice within
23 California. Non-practice is defined as any period of time exceeding thirty (30) days in which
24 respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business
25 and Professions Code. All time spent in an intensive training program approved by the Division
26 or its designee shall be considered as time spent in the practice of medicine. A Board-ordered
27 suspension of practice shall not be considered as a period of non-practice. Periods of temporary
28 or permanent residence or practice outside of California or of non-practice within California, as

defined in this condition, will not apply to the reduction of the probationary period.

L. **COMPLETION OF PROBATION.** Upon successful completion of probation, respondent's certificate shall be fully restored.

M. **VIOLATION OF PROBATION.** If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

N. **COST RECOVERY.** Respondent is hereby ordered to reimburse the Division the amount of fifteen thousand dollars (\$15,000.00) within 90 days from the effective date of this decision for its costs of investigation and prosecution of this matter. Failure to reimburse the Division's costs of investigation and prosecution shall constitute a violation of the probation order, unless the Division agrees in writing to payment by an installment plan because of financial hardship. The filing of bankruptcy by respondent shall not relieve him of his responsibility to reimburse the Division for its costs of investigation and prosecution.

O. **PROBATION MONITORING COSTS.** Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Division, which may be adjusted on an annual basis. Such costs shall be made payable to the Division of Medical Quality and delivered to the designated probation surveillance monitor no later than January 31 of each calendar year. Failure to pay costs within 30 days of the due date shall constitute a violation of probation.

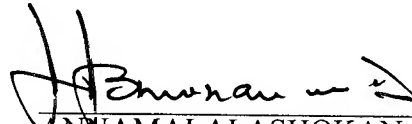
P. **LICENSE SURRENDER.** Following the effective date of this decision, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his certificate to the Board. The Division reserves the right to evaluate the respondent's request and to exercise its discretion as to whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent

1 will no longer be subject to the terms and conditions of probation.

2
3 **ACCEPTANCE**

4 I have read the above Stipulated Settlement and Disciplinary Order. I have fully
5 discussed the terms and conditions and other matters contained therein with my attorney, Edward
6 Hinshaw, Esq. I understand the effect this Stipulated Settlement and Disciplinary Order will
7 have on my Physician and Surgeon's Certificate No. A 43142, and agree to be bound thereby. I
8 enter this Stipulation freely, knowingly, intelligently and voluntarily. **I agree that a facsimile**
9 **copy of my signature on this document shall be binding upon me as if it were the original.**

10
11 DATED: July 24, 01

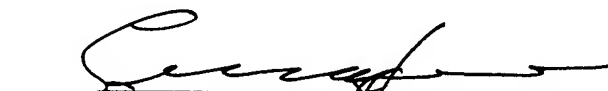
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14 ANNAMALAI ASHOKAN, M.D.
15 Respondent
16

17 I have read the above Stipulated Settlement and Disciplinary Order and approve
18 of it as to form and content. I have fully discussed the terms and conditions and other matters
19 therein with respondent Annamalai Ashokan, M.D. **I agree that a facsimile copy of my**
20 **signature on this document shall be binding upon me as if it were the original.**

21
22 DATED: July 11, 2001

23
24 HINSHAW, DRAA, MARSH, STILL & HINSHAW

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26 
27 EDWARD HINSHAW, Esq.
28 Attorneys for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for the consideration of the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, State of California.

DATED: July 27, 2001

BILL LOCKYER, Attorney General
of the State of California

Brenda P. Reyes
BRENDA P. REYES
Deputy Attorney General
Attorneys for Complainant

EXHIBIT A

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 26, 2000
BY Dorene K. [Signature] ANALYST

1 BILL LOCKYER, Attorney General
of the State of California
2 VIVIEN HARA HERSH, State Bar No. 084589
Supervising Deputy Attorney General
3 BRENDA P. REYES, State Bar No. 129718
Deputy Attorney General
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5 Telephone: (415) 703-5541
Facsimile: (415) 703-5480

6 Attorneys for Complainant

8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation
14 Against:

15 **ANNAMALAI ASHOKAN, M.D.**
16 947 Cass Street, Suite 1
17 Monterey, CA 93940

18 Physician and Surgeon's Certificate No. A 43142

19 Respondent.

Case No. 03 1999 095983

OAH No. N2000050171

**FIRST AMENDED
ACCUSATION**

20 The Complainant alleges:

PARTIES

21 1. Complainant, Ronald Joseph, is the Executive Officer of the Medical Board of
22 California (hereinafter "the Board") and brings this accusation solely in his official capacity.

23 2. At all times material herein, respondent Annamalai Ashokan, M.D. (hereinafter
24 "respondent" or "Dr. Ashokan"), has held Physician and Surgeon's Certificate No. A 43142 ,
25 which was issued to him by the Board on or about September 29, 1986. Said certificate is current
26 with an expiration date of June 30, 2002. No prior disciplinary action has been taken against said
27 Certificate. Respondent is not currently an approved supervisor of a physician assistant.

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JURISDICTION

3. Section 2001 of the Business and Professions Code¹ provides for the existence of the Board.

4. Section 2003 provides for the existence of the Division of Medical Quality (hereinafter "the Division") within the Board.

5. Section 2004 provides, inter alia, that the Division is responsible for the enforcement of the disciplinary provisions of the Medical Practice Act (Bus. & Prof. Codes, §§ 2000, et seq.); the administration and hearing of disciplinary actions; the carrying out of disciplinary actions appropriate to findings made by a medical quality review committee, the division, or an administrative law judge; and, the suspending, revoking or otherwise limiting of certificates after the conclusion of disciplinary actions.

6. Section 2227 provides, in pertinent part, that a licensee who is found guilty under the Medical Practice Act may have his license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, publicly reprimanded, or have such other action taken against him in terms of discipline that the Division deems proper.

7. Section 2229 provides, in pertinent part, that protection of the public shall be the highest priority of the Division in exercising its disciplinary authority.

8. Section 14124.12 of the Welfare and Institutions Code states that:

"(a) Upon receipt of written notice from the Medical Board of California . . . that a licensee's license has been placed on probation as a result of a disciplinary action, the department may not reimburse any Medi-Cal claim for the type of surgical service or invasive procedure that gave rise to the probation, including any . . . invasive procedure, that was performed by the licensee on or after the effective date of probation and until the termination of all probationary terms and conditions or until the probationary period has ended, whichever occurs first. This section shall apply except in any case in which the relevant licensing board determines that compelling circumstances warrant the continued reimbursement during the probationary period of any Medi-Cal claim . . . as so described. In such a case, the department shall continue to

¹ All statutory references are to the Business and Professions Code unless otherwise indicated.

1 reimburse the licensee for all procedures, except for those invasive
2 or surgical procedures for which the licensee was placed on
probation.

3 "(b) The Medical Board of California . . . shall work in conjunction
4 with the State Department of Health Services to provide all
information that is necessary to implement this section. These
5 boards and the department shall annually report to the Legislature
by no later than March 1 that number of licensees of these boards,
6 placed on probation during the immediately preceding calendar
year, who are:

7 "(1) Not receiving Medi-Cal reimbursement for certain surgical
8 services or invasive procedures . . . as a result of subdivision (a).

9 "(2) Continuing to receive Medi-Cal reimbursement for certain surgical or
invasive procedures . . . as a result of a determination of compelling circumstances
10 made in accordance with subdivision (a).

11 "(c) This section shall become inoperative on July 1, 2003, and, as
of January 1, 2004, is repealed, unless a later enacted statute that is
12 enacted before January 1, 2004, deletes or extends the dates on
which it becomes inoperative and is repealed."

13 STATUTES

14 9. Section 2234 provides, in pertinent part, that the Division shall take action
15 against any licensee who is charged with unprofessional conduct and that in addition to other
16 provisions of this article, unprofessional conduct includes, but is not limited to the following:

17 "(a) Violating or attempting to violate, directly or indirectly, or assisting in
18 or abetting the violation of, or conspiring to violate, any provision of this chapter.

19 "(b) Gross negligence; and,
20 . . .

21 "(e) The commission of any act involving dishonesty or corruption which
22 is substantially related to the qualifications, functions, or duties of a physician and surgeon."

23 10. Section 2236 provides, in pertinent part, that:

24 "(a) The conviction of any offense substantially related to the
25 qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct
26 within the meaning of this chapter. The record of conviction shall be conclusive evidence only of
27 the fact that the conviction occurred.
28 . . .

1 "(d) A plea or verdict of guilty or a conviction after a plea of nolo
2 contendere is deemed to be a conviction within the meaning of this section and Section 2236.1.
3 The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

4 11. Section 726 provides, in pertinent part, that:

5 "The commission of any act of sexual abuse, misconduct, or relations with a
6 patient, client, or customer constitutes unprofessional conduct and grounds for
7 disciplinary action for any person licensed under this division. . . ."

8 **COST RECOVERY**

9 12. Section 125.3 provides, in pertinent part, that in any order issued in
10 resolution of a disciplinary proceeding before any board within the California Department of
11 Consumer Affairs, the board may request the administrative law judge to direct a licensee found
12 to have committed a violation or violations of the licensing act to pay a sum not to exceed the
13 reasonable costs of the investigation and enforcement of the case.

14 **FIRST CAUSE FOR DISCIPLINARY ACTION**

15 (Sexual Misconduct)

16 13 . On or about January 14, 1997, patient C.N.², a female adult, suffered a work-
17 related back injury as a result of a slip and fall. Following initial treatment, C.N. continued to
18 suffer from headaches and dizziness and was referred to a neurologist who performed an
19 electroencephalogram. C.N. was then referred to an orthopedist. An MRI scan of the lumbar
20 spine showed multi-level degenerative disk disease and central disk herniation. C.N. was treated
21 with various analgesics , pool therapy, physical therapy and exercises, and she was recommended
22 for a weight reduction program. C.N. showed little, if any, improvement over two years and in
23 January 1999, was referred to respondent, a pain management specialist, for treatment with an
24 epidural steroid injection.

25 14. On or about January 19, 1999, respondent saw C.N. in his Hollister office
26 where he took a brief history and performed a brief physical examination. C.N. advised

27 _____
28 ² In order to protect the privacy of the patient, the name of the patient will be revealed to
 respondent through the discovery process.

1 respondent that she was in a lot of pain and that she was under the care of a psychiatrist and
2 taking Paxil³ for depression. C.N. also advised respondent that she had at times been suicidal due
3 to the unrelenting pain. Respondent advised her that he would do a lumbar epidural pain block
4 which would help alleviate her pain.

5 15. On or about February 9, 1999 C.N reported to Hazel Hopkins Hospital for the
6 epidural injection as instructed by respondent. There were no complications, however, over the
7 next two weeks C.N. experienced back spasms, severe headaches, dizziness and blurred vision.

8 16. When the symptoms did not subside, C.N. contacted respondent's office on or
9 about February 23, 1999, reported her complaint, and was instructed to come in and see
10 respondent that day. After assessing her complaints, respondent did a bilateral occipital injection
11 of Marcaine and Depo-Medrol to numb the area. Almost immediately C.N. became dizzy and
12 nauseated. Respondent had her lie down on an examination table.

13 17. While C.N. was lying on the table, respondent asked her if she was single.
14 She replied that she was, and he told her that he was also single. Respondent told C.N. that she
15 was beautiful and very attractive and that she needed someone to take care of her and give her
16 tender loving care. During this conversation, respondent caressed C.N.'s right hand and her
17 exposed skin on her midriff while he rubbed his erect penis, through his clothing, against her bare
18 right arm. Respondent then caressed C.N.'s nipples with his hand under her blouse and he
19 caressed her face. During this time, C.N. was still dizzy and nauseated.

20 18. Respondent asked C.N. where she was having pain and she told him.
21 Respondent then asked C.N. what plans she had for the evening and when she told him "nothing,"
22 he stated that he would be at his office late working and asked if she wanted to return to his office
23 later that evening. During this conversation, respondent rubbed his penis against C.N.'s arm.
24 C.N. indicated to respondent that she would like to return to his office later that evening.

25 19. When C.N. attempted to get up from the table she still felt dizzy. Respondent
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27 ³ Paxil, a trade name for paroxetine hydrochloride, is an antidepressant unrelated to
28 tricyclic, tetracyclic or other available antidepressant agents. It is a dangerous drug as defined in
section 4022 and is used for the treatment of depression.

1 attempted to assist C.N. in standing and grabbed her around the waist. While holding C.N.
2 against his body, respondent rubbed his erect penis against her groin area and then kissed her
3 cheek.

4 20. When C.N. left the office, respondent advised her to leave from the side office
5 door since the front door was locked. Respondent told her to knock on the side door when she
6 returned later that evening.

7 21. C.N. returned to respondent's office later that evening and knocked on the
8 side door but there was no answer. She waited in her car for awhile and then returned home and
9 paged respondent. Respondent returned her call and told C.N. that he really wanted to see her.
10 Respondent gave C.N. directions to his home and told her to meet him there that evening. When
11 C.N. arrived at respondent's home, they immediately went to a bedroom where C.N. performed
12 oral sex on respondent. C.N. then returned home that same evening.

13 22. The following day C.N. telephoned respondent to inquire about a blood test
14 that she was supposed to schedule. She was advised by the receptionist that either she or
15 respondent would return her call the next day, Thursday, February 24, 1999. C.N. did not receive
16 a call on Thursday and so she paged respondent on Friday, February 25 1999. Respondent
17 returned her call that Friday, and asked her how she was doing. C.N. told him that her head felt
18 numb. C.N. then asked respondent if they could see a movie together. Respondent told C.N. that
19 she was very attractive. Respondent advised her that "what happened the other day can't happen
20 again. I am your doctor and you are my patient." Respondent advised C.N. that if she was not
21 his patient, then he could see her.

22 23. On or about March 6, 1999, C.N. filed a complaint with the Medical Board
23 regarding respondent's conduct described above.

24 24. Respondent's conduct as set forth in paragraphs 13 through 22, above,
25 constitutes sexual misconduct pursuant to section 726 in that respondent engaged in sexual
26 relations with C.N. while she was his patient. Therefore, cause for disciplinary action exists.

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1 **SECOND CAUSE FOR DISCIPLINARY ACTION**

2 (Gross Negligence)

3 25. Complainant realleges and incorporates by reference paragraphs 13
4 through 22 of this Accusation.

5 26. Respondent's conduct as set forth in paragraphs 13 through 22 above,
6 constitutes unprofessional conduct as gross negligence and is cause for disciplinary action
7 pursuant to section 2234, subdivision (b). While treating C.N., respondent knew that C.N. had
8 been in extreme pain for two years with little, if any, relief. Respondent was also aware that
9 C.N. was under the care of a psychiatrist and taking medication for depression, and that she had
10 experienced suicidal thoughts because of the unrelenting back pain. Notwithstanding this
11 knowledge pertaining to C.N.'s vulnerable physical and psychological condition, respondent, in
12 pursuit of his own sexual gratification, engaged in sexual relations with C.N. to the detriment of
13 C.N.'s psychological and physical well being. Respondent's complete disregard of patient
14 C.N.'s fragile psychological and physical state constitutes an extreme departure from the standard
15 of practice. Therefore, cause for disciplinary action exists.

16 **THIRD CAUSE FOR DISCIPLINARY ACTION**

17 (Dishonest and Corrupt Acts)

18 27. Complainant realleges and incorporates by reference paragraphs 13
19 through 23 of this Accusation.

20 28. On or about May 19, 1999, in the presence of a Medical Board investigator,
21 C.N. telephoned respondent. During that conversation, which was electronically recorded, C.N.
22 asked respondent if they could go out. Respondent indicated that they could not go out as she
23 was his patient. Respondent then advised C.N. that she should draft a letter indicating that she
24 did not want to be his patient and back date it to January of 1999. Respondent stated that he
25 would then close the file and "then we'll see" about going out. Respondent also asked C.N. to
26 call him later that evening and he agreed to meet her later.

27 29. On or about June 15, 1999, respondent was interviewed by two Medical Board
28 investigators at his office. Respondent denied ever having contact with C.N. outside of his office.

1 He also denied ever suggesting to C.N. that she write a letter stating that she was no longer his
2 patient. Respondent further denied that he had agreed to meet C.N. outside of the office during a
3 telephone conversation.

4 30. On or about September 29, 1999, respondent was again interviewed by a
5 Medical Board investigator. Respondent denied ever having sexual relations with C.N. While
6 admitting that he did tell C.N. to write a letter indicating that she did not want to be his patient so
7 that he would not have to deal with her anymore, he denied suggesting to C.N. that she back date
8 such a letter. Respondent further denied that he had ever made plans to meet C.N. outside of the
9 office.

10 31. Respondent's conduct as set forth in paragraphs 27 through 30, above,
11 constitutes unprofessional conduct as dishonest and corrupt acts that are substantially related to
12 the qualifications, functions and duties of a physician in violation of section 2234, subdivision
13 (e), in that respondent asked patient C.N. to back date a letter indicating that she did not wish to
14 be his patient in order for them to continue to see each other outside of the office setting.
15 Respondent further committed dishonest and corrupt acts, in that when he was questioned by
16 Medical Board investigators regarding his conduct as set forth above, he denied ever having
17 contact with C.N. outside of the office, he denied having sexual relations with C.N., and he
18 denied suggesting that C.N. write and back date a letter indicating that she did not wish to be his
19 patient any longer. Therefore, cause for disciplinary action exists.

20 **FOURTH CAUSE FOR DISCIPLINARY ACTION**

21 (Criminal Conviction Substantially Related to Duties of a Physician)

22 32. On or about February 23, 2000, the San Benito County District Attorney's
23 Office filed a criminal complaint in People v. Annamalai Ashokan, San Benito County Superior
24 Court No. 038239, charging respondent with a single misdemeanor count of violating Business
25 and Professions Code section 729(a) (sexual exploitation of a patient/client), arising from
26 respondent's contact with patient C.N. on February 23, 1999, as alleged in the first cause for
27 discipline, above. On or about April 13, 2000, respondent was convicted of a violation of
28 Business and Professions Code section 729(a), following a plea of "nolo contendere" to the

1 complaint in People v. Ashokan.

2 33. Respondent's conduct as alleged in paragraph 32, above, constitutes
3 unprofessional conduct under Business and Professions Code section 2236 in that respondent has
4 been convicted of an offense substantially related to the qualifications, functions or duties of a
5 physician and surgeon, and therefore, cause exists for discipline under section 2236.

6 **PRAYER**

7 WHEREFORE, the complainant requests that a hearing be held on the matters
8 alleged herein, and that following said hearing, the Board issue a decision:

- 9 1. Revoking or suspending Physician and Surgeon's Certificate Number A
10 43142, heretofore issued to respondent Annamalai Ashokan, M.D.;
- 11 2. Prohibiting respondent from supervising physician assistants;
- 12 3 Ordering respondent to pay the Board the actual and reasonable costs of the
13 investigation and enforcement of this case, and, if respondent is placed on probation, the costs of
14 probation monitoring; and,
- 15 4. Taking such other and further action as the Board deems necessary and
16 proper.

17 DATED: June 26, 2000

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21 RONALD JOSEPH
22 Executive Director
23 Medical Board of California
24 Department of Consumer Affairs
25 State of California

26
27 Complainant
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